

§ 240.13a-13

17 CFR Ch. II (4-1-02 Edition)

§ 240.13a-13 Quarterly reports on Form 10-Q and Form 10-QSB (§ 249.308a and § 249.308b of this chapter).

(a) Except as provided in paragraphs (b) and (c) of this section, every issuer that has securities registered pursuant to section 12 of the Act and is required to file annual reports pursuant to section 13 of the Act, and has filed or intends to file such reports on Form 10-K and Form 10-KSB (§ 249.310 of this chapter) or U5S (§ 259.5s of this chapter), shall file a quarterly report on Form 10-Q and Form 10-QSB (§ 249.308a of this chapter) within the period specified in General Instruction A.1. to that form for each of the first three quarters of each fiscal year of the issuer, commencing with the first fiscal quarter following the most recent fiscal year for which full financial statements were included in the registration statement, or, if the registration statement included financial statements for an interim period subsequent to the most recent fiscal year end meeting the requirements of Article 10 of Regulation S-X, for the first fiscal quarter subsequent to the quarter reported upon in the registration statement. The first quarterly report of the issuer shall be filed either within 45 days after the effective date of the registration statement or on or before the date on which such report would have been required to be filed if the issuer has been required to file reports on Form 10-Q and Form 10-QSB as of its last fiscal quarter, whichever is later.

(b) The provisions of this rule shall not apply to the following issuers:

(1) Investment companies required to file reports pursuant to § 270.30b1-1;

(2) Foreign private issuers required to file reports pursuant to § 240.13a-16.

(c) Part I of the quarterly reports on Form 10-Q or Form 10-QSB need not be filed by:

(1) Mutual life insurance companies; or

(2) Mining companies not in the production stage but engaged primarily in the exploration for the development of mineral deposits other than oil, gas or coal, if all of the following conditions are met:

(i) The registrant has not been in production during the current fiscal

year or the two years immediately prior thereto; except that being in production for an aggregate period of not more than eight months over the three-year period shall not be a violation of this condition.

(ii) Receipts from the sale of mineral products or from the operations of mineral producing properties by the registrant and its subsidiaries combined have not exceeded \$500,000 in any of the most recent six years and have not aggregated more than \$1,500,000 in the most recent six fiscal years.

(d) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form 10-Q and Form 10-QSB, shall not be deemed to be “filed” for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

(Sec. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565-568, 569, 570-574; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 78l, 78m, 78o(d), 78w(a); secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 88 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 78 Stat. 565-568, 569, 570-574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), “1, 2, 3-5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 81 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78o(d), 78w(a))

[42 FR 24064, May 12, 1977, as amended at 48 FR 19877, May 3, 1983; 50 FR 27939, July 9, 1985; 54 FR 10317, Mar. 13, 1989; 57 FR 10615, Mar. 27, 1992; 61 FR 30403, June 14, 1996]

§ 240.13a-16 Reports of foreign private issuers on Form 6-K (17 CFR 249.306).

(a) Every foreign private issuer which is subject to Rule 13a-1 (17 CFR 240.13a-1) shall make reports on Form 6-K, except that this rule shall not apply to:

(1) Investment companies required to file reports pursuant to Rule 30b1-1 (17 CFR 270.30b1-1);

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(2) Issuers of American depositary receipts for securities of any foreign issuer; or

(3) Issuers filing periodic reports on Forms 10-K and Form 10-KSB, 10-Q and Form 10-QSB and 8-K.

(b) Such reports shall be transmitted promptly after the information required by Form 6-K is made public by the issuer, by the country of its domicile or under the laws of which it was incorporated or organized, or by a foreign securities exchange with which the issuer has filed the information.

(c) Reports furnished pursuant to this rule shall not be deemed to be "filed" for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section.

[32 FR 7849, May 30, 1967, as amended at 44 FR 70137, Dec. 6, 1979; 47 FR 54781, Dec. 6, 1982; 50 FR 27939, July 9, 1985; 57 FR 10615, Mar. 27, 1991]

§ 240.13a-17 [Reserved]

REGULATION 13B-2: MAINTENANCE OF RECORDS AND PREPARATION OF REQUIRED REPORTS

§ 240.13b2-1 Falsification of accounting records.

No person shall directly or indirectly, falsify or cause to be falsified, any book, record or account subject to section 13(b)(2)(A) of the Securities Exchange Act.

(15 U.S.C. 78m(b)(2); 15 U.S.C. 78m(a), 78m(b)(1), 78o(d), 78j(b), 78n(a), 78t(b), 78t(c))

[44 FR 10970, Feb. 23, 1979]

§ 240.13b2-2 Issuer's representations in connection with the preparation of required reports and documents.

No director or officer of an issuer shall, directly or indirectly,

(a) Make or cause to be made a materially false or misleading statement, or

(b) Omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in the light of the circumstances under which such statements were made, not misleading to an accountant in connection with (1) any audit or examination of the financial statements of the issuer required to be made pursuant to this subpart or (2) the preparation or filing of any docu-

ment or report required to be filed with the Commission pursuant to this subpart or otherwise.

(15 U.S.C. 78m(b)(2); 15 U.S.C. 78m(a), 78m(b)(1), 78o(d), 78j(b), 78n(a), 78t(b), 78t(c))

[44 FR 10970, Feb. 23, 1979]

REGULATION 13D

SOURCE: Sections 240.13d-1 through 240.13f-1 appear at 43 FR 18495, Apr. 28, 1978, unless otherwise noted.

ATTENTION ELECTRONIC FILERS

THIS REGULATION SHOULD BE READ IN CONJUNCTION WITH REGULATION S-T (PART 232 OF THIS CHAPTER), WHICH GOVERNS THE PREPARATION AND SUBMISSION OF DOCUMENTS IN ELECTRONIC FORMAT. MANY PROVISIONS RELATING TO THE PREPARATION AND SUBMISSION OF DOCUMENTS IN PAPER FORMAT CONTAINED IN THIS REGULATION ARE SUPERSEDED BY THE PROVISIONS OF REGULATION S-T FOR DOCUMENTS REQUIRED TO BE FILED IN ELECTRONIC FORMAT.

§ 240.13d-1 Filing of Schedules 13D and 13G.

(a) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is specified in paragraph (i) of this section, is directly or indirectly the beneficial owner of more than five percent of the class shall, within 10 days after the acquisition, file with the Commission, a statement containing the information required by Schedule 13D (§ 240.13d-101).

(b)(1) A person who would otherwise be obligated under paragraph (a) of this section to file a statement on Schedule 13D (§ 240.13d-101) may, in lieu thereof, file with the Commission, a short-form statement on Schedule 13G (§ 240.13d-102), *Provided, That:*

(i) Such person has acquired such securities in the ordinary course of his business and not with the purpose nor with the effect of changing or influencing the control of the issuer, nor in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to Rule 13d-3(b) (§ 240.13d-3(b)); and

(ii) Such person is: